IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.322 OF 2005

Salikram Ramkhelawan Sharma : Appellant.

versus

Lallan Ramkhelawan Sharma & Anr : Respondents.

Mr.S.A.Pawar for the appellant.

Mr.Suresh Gole for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 14th June 2005.

ORAL ORDER

1. Heard advocate for the appellant and respondents. Counsel for the appellant contended that though in his suit as per prayer (a) he has claimed declaration of joint ownership of business with the defendant of Shankar Hair Cutting Saloon and of equal share of 20%. The trial Court did not frame any issue on that point

but concentrated itself on the second part of the prayer i.e. joint tenancy. The judgment shows that no issue in this regard was framed by the trial Court. Therefore at the state of admission itself, after hearing, the appeal is admitted and finally disposed of by following order :-

:ORDER:

The impugned judgment and decree is set aside. The matter is remanded to the trial Court for framing necessary issue and deciding the same. If the parties intend to adduce any evidence on that issue, they will be at liberty to do so.

Counsel for the plaintiff states that the plaintiff shall not be claiming any relief of joint tenancy or co-tenancy of shop No.16 in the suit in view of the objection to the jurisdiction rightly raised by the defendant.

Appeal is disposed of accordingly. Civil Application does not survive. It is disposed of.

The plaintiff will be at liberty to apply for interim, ad interim order before the trial Court afresh.

Advocate Mr.Gole, appearing for the defendants, states that the defendants have disposed of the premises.

[D.G.DESHPANDE]

14/06/2005 JUDGE.